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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,802

04/13/2006

Benjamin Mettavant

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23838 7590 10/18/2007

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EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

10/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,802	<b>Applicant(s)</b> METTAVANT, BENJAMIN	
	<b>Examiner</b> Winnie Yip	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 9-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-14, 16-24 and 28 is/are rejected.
- 7) ☒ Claim(s) 15 and 25-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is in response to applicant's amendment filed on July 23, 2007.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Drawings***

1. The drawings were received on July 23, 2007. These drawings are approved.
2. The drawings filed January 25, 2006 are objected to because Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 103***

3. Claims 9-14, 16-24, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman (US Patent No. 3,960,161) in view of Habchi (US Patent No. 5,337,772).

Norman teaches a self-deployable tent comprising: a hoop structure (see Fig. 14) including at least one top loop (29 or 29e) connected to a base (26), the base (26) being a ground sheet, a

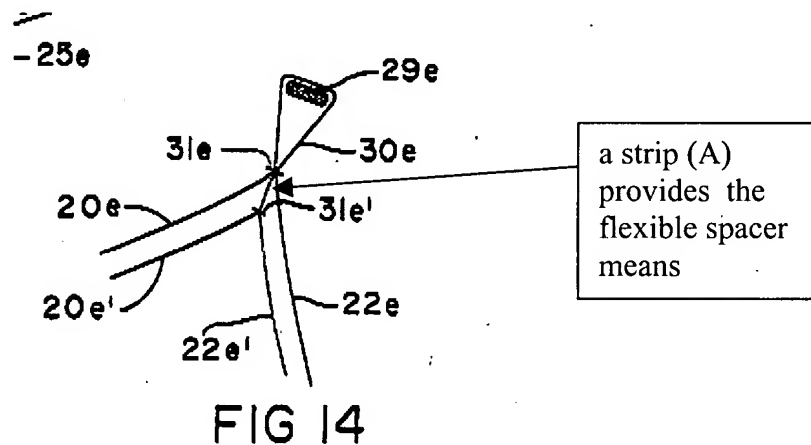
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roof sheet (20, 22; or 20e) secured to the top loop (29 or 29e) and the base sheet (26), the roof sheet (20e) having a long strip of material (30e) fixed on and integrated in the outside face of the roof sheet (20e) to allow the top loop (29e) passed therethrough, an inside chamber (20e') disposed beneath the roof sheet (20e), a flexible spacer means (a strip A formed by stitching 31e and 31e') provided between the roof sheet (20e) and the bottom chamber (20e'), wherein the inside chamber (20e') has a top portion secured to the top loop (29e) via the flexible spacer means (31e) and a bottom portion attached to the ground sheet (26) (see col. 5, lines 8-16), wherein in the deployed position, the tension of the roof sheet and the inside chamber are held apart from each other by the flexible spacer means, the bottom portion of the roof sheet includes two opposite openings (32) for inlet and outlet of air flowing in a ventilation space between the roof sheet and the inside chamber. Although Norman does not define the hoop structure including a base loop as claimed, Habchi teaches a tent comprising a hoop structure including a top loop (12) having two ends being connected to a base loop (11), the base loop being attached to a ground sheet, a roof sheet (24) attached to the top loop and the base loop, and the top and base loops having connectors for providing adjuster means that can adjust the width of the tent. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the self-deployable tent of Norman having a base loop being connected to the top loop and covered by the ground sheet and with the loops having adjusting means as taught by Habchi for providing an adjustable tent with a base support in a self-deployed position.

Regard to claim 11, Habchi further teaches the roof sheet (24) including two opposite opening being formed in the inside region of the top loop closed to the base loop. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to

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modify the tent of Norman being provided the base with a base loop and having opposite openings formed in the opposite connections (12A) between two loops which are located at the inside region of the top loop and closed to the base loop as taught by Habchi for providing a gap between the connection between the loops to allow easier assembly and providing air flowing inside of the tent as an obvious choice of location.



#### *Allowable Subject Matter*

4. Claims 15 and 25-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Response to Arguments*

5. Applicant's arguments filed July 23, 2007 have been fully considered but they are not persuasive for following reasons:

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a. In response to applicant's argument that Norman fails to fail to show certain features of applicant's invention, however, applicant has defined "the flexible spacer means may be of a very wide variety of types. They may be textile strips sewn directly to the roof sheet and to the inside chamber" (see page 5, lines 6-10). Since, in claims 9-14, 17-24, and 28, applicant does not positively claim the details of "flexible spacer means", it is examiner's position to broadly and reasonably interpret that Norman teaches the tent comprising a strip (A) sewn directly between the roof sheet (20e) and the inside chamber (20e') by stitches (31e and 31e'). And, such "strip" (A) broadly provide the means plus function as the "flexible spacer means" as the element 8 of the claimed invention.

b. In response to applicant's argument that there is no suggestion to combine the references of Norman and Habchi because Habchi does not disclose any flexible spacer means, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Both Norman and Habchi teach a self-deployable tent comprising at least one top member and a base member connected together as claimed. Habchi is used to teach the tent having both top member and base member having a loop (or call a loop of frame member) to provide a stable bottom support to the tent as solve the same problem as the claimed invention. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the tent of Norman having the base member also formed with a loop as

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taught by the Habchi to provide a tent with more stable support. The obviousness combination is established.

***ACTION IS MADE FINAL***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip  
Primary Examiner  
Art Unit 3636

wsy  
October 15, 2007





Appl. No. 10/565,802  
Reply to Office Action dated 1.04.07  
Replacement Sheet

2/2

*approved  
my  
10/9/07*

